

OLC 78-0204

10 January 1978

MFR

25X1 MEMORANDUM FOR: [REDACTED]
Requirements and Evaluation/Office of the Comptroller
25X1 FROM: [REDACTED]
Office of Legislative Counsel
SUBJECT: Comments on "Draft 1978 DCI Annual Report on
the Intelligence Community" [REDACTED]

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25X1 1. [REDACTED] Officers in the Office of Legislative Counsel have reviewed, within the short deadline provided, select portions of subject draft. The following comments are based on that review of "The Role of the DCI" in section I; and all of section V; "Legality and Propriety of Intelligence Activities."

25X1 2. [REDACTED] Our comments re these portions of the subject report are as follows:

a. Page 219: The HPSCI has been more active than paragraph one on this page implies. Recommend changing first two words of paragraph, "virtually all..." to "most..."

b. Page 220: Mention is made here of the SCC reviewing "legislation to protect sources and methods." Query: what sources and methods legislation is being referred to here in the context of the NSC/SCC, and what has the SCC done to date in this regard?

c. Page 224:

1. fourth line from top of page - change first word "major" to "significant"

2. under the heading of "Foreign Intelligence Surveillance" the following statement is made: "The House has not actively considered this [S. 1566] legislation." The House Committee is now assuming a more active role in this regard. In fact, the House Permanent Select Committee on Intelligence has scheduled hearings on electronic surveillance legislation for 10, 11 and 18 January. This paragraph should therefore be changed to reflect these circumstances.

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3. In the same paragraph we also question:

... (a) the use of the term "severe" in the sentence, "The bill would provide severe standards..." (emphasis added), and

(b) the legal conclusion stated therein; to wit, that the bill would "place [electronic surveillance activities] on a solid and reliable legal footing..."

Recommend: drop the word "severe" and rewrite the entire sentence as follows:

"While establishing the first statutory authority for electronic surveillance activities, the bill would set standards for authorizing electronic surveillance with a view to protecting the constitutional rights of individuals."

4. The last sentence in the "Foreign Intelligence Surveillance" paragraph is troublesome. In its vagueness and with particular regard to the use of the phrase "far-reaching consequences" it raises some rather unpleasant connotations which seem to demand further explanation. If the sentence is deemed necessary it should be modified to read:

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d. Page 225: the "Other Significant Pending Legislation" should be changed in pertinent part to read as follows:

"S. 1264, the Federal Acquisition Act of 1977, as currently written, changing Federal procurement policies, would not adversely affect intelligence activities. Several bills requiring public financial disclosure by Government employees would probably have serious impact on cover employees if not modified as recommended by CIA. S. 1845, which CIA is seeking to amend, could severely restrict the use of the polygraph..."

e. conspicuous by its absence is the issue of "leaks" by Congress, which, in our opinion, should be mentioned.

3. We would like again to stress our interest in receiving a full copy of the final report to assist us in our intelligence charter legislation.

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